

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) Case No. 4:11CR246 CDP-12
)
JERRY ELKINS(12),)
)
Defendant.)

ORDER

This matter is before the Court on defendant Jerry Elkins' motions to suppress physical evidence and motions to dismiss Count 13 of the indictment.¹ As with the other pretrial motions in this case, these motions were referred to United States Magistrate Judge Frederick R. Buckles under 28 U.S.C. § 636(b). Judge Buckles received briefs and heard evidence related to the motions. He then filed his Report and Recommendation recommending that the motions be. Defendant Elkins has filed objections to each of Judge Buckles' recommended rulings.

I have conducted a *de novo* review of the motions. With regard to the motion to suppress, in addition to reviewing all briefs and transcripts I also listened to the recording of the hearing. I conclude that Judge Buckles properly

¹Defendant Elkins also filed a motion to suppress the contents of any electronic surveillance. It is dealt with in a separate order.

found the facts from the evidence and properly applied the law to those facts. I also credit the testimony of the officers over that of defendant Elkins with regard to the issue of consent. I will also deny the motions to dismiss. The government has represented that it will prove at trial that at least one overt act in furtherance of the conspiracy took place in the Eastern District of Missouri. If it does not, of course, I expect defendant will re-raise this issue at trial. I will therefore adopt the factual findings, the reasoning, and the legal conclusions reached by Judge Buckles.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of the United States Magistrate Judge [#1007] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendant Jerry Elkins' motion to suppress physical evidence [#356] is denied, his motion to dismiss Count 13 for lack of proper venue [#358] is denied, and his motion to dismiss Count 13 for multiplicity [#360] is denied.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 15th day of October, 2012.